



WATERWAY PERMITS IN DECLARED DISASTER AREAS

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What you need to know

Recovering from a natural disaster can be overwhelming for both communities and individual citizens. This factsheet will help you protect our natural resources by understanding and complying with our environmental laws. Remember, it is necessary for any applicant receiving FEMA assistance to obtain and comply with all applicable local, State and Federal laws, requirements and permits. Please be aware that failure to comply may jeopardize Federal funding.



The Wisconsin courts and legislature have charged the DNR to protect the public and private rights in navigable waters of the state. Public rights are those attributes of our public waters that all citizens have a right to enjoy and depend on. Public rights include such things:

- Commercial and recreational navigation in all forms (boating, swimming, fishing, etc.)
- Water quality necessary to support fishing and hunting activities
- Natural scenic beauty of lakes and streams.

Just as important for restoration and mitigation activities following a natural disaster, Wisconsin state law also protects the private rights of citizens from detrimental impacts of projects near or in public waters. Projects can not be approved without the consent of neighbors or other property owners if their property will be flooded or damaged.

The DNR has staff available to assist you with your disaster restoration or mitigation projects. Remember to contact the local DNR office first if you have any questions about the permitting steps discussed in this factsheet.

Permitting Overview

Under Wisconsin law (State Statute Chapter 30), the Wisconsin Department of Natural Resources (DNR) regulates many of the construction activities in or near our lakes, rivers, streams, and wetlands. Repair and restoration activities that occur following a natural disaster like flooding or tornadoes may require permits or approvals from the DNR. With a few exceptions, the following activities require DNR approval:

- All structures in public waterways
- Wet ponds within 500 ft of a public waterway
- Ponds connected to public waterways
- Enlargements of public waterways
- Grading on the bank of a public waterway
- Relocating a public stream channel
- Dredging in all streams and public lakes
- Filling or dredging in wetlands

The local DNR Water Management Specialist (WMS) can assist communities and individual citizens to identify what types of permits or approvals are required. DNR staff give a high priority disaster relief projects, promote prevention measures, and review projects for environmental integrity.

Your local WMS can be reached by contacting the nearest DNR Service Center or Regional Headquarters Office. The WMS contact information can also be found on the DNR Internet web site at www.dnr.state.wi.us/org/water/fhp/waterway/index.htm. ❖



Streamlining the Process

It is important for community officials, individual property owners and DNR staff to expedite projects in an officially declared disaster area. Your project will likely fit into one of the categories below. Please review the following project categories to determine what type of DNR approval or permit is required.

Protection of Human Health and Safety: You must provide notification to the local DNR Water Management Specialist (WMS) or Conservation Warden if regulated activities must be undertaken immediately to protect human health and safety or resolve an on going environmental problem. The project should be designed to meet the substantive requirements of the law, recognizing that once the site is stable, you must apply for and receive an after-the-fact permit from the DNR.

Previously Permitted Activities: If the disaster restoration or mitigation project was previously issued a Chapter 30 or Chapter 31 permit by the DNR, authorized under Trans 207 Wis. Administrative Code or through the cooperative agreement between the Department of Transportation and the DNR, you can restore or rebuild to the dimensions specified by the original permit. This includes the replacement of previously authorized bridges and culverts. Be sure to follow all applicable statutes, codes and permit conditions.

Minor Replacement of Culverts: If your culvert project is a minor replacement, you may simply

submit a "conceptual plan" to the local WMS. The conceptual plan must include a site location map, descriptions of the existing and proposed culverts, comparative flow line elevation, and a statement that the project meets the

minor replacement guidelines 1-8 below:

1. Erosion control practices are designed and implemented to meet the requirements of s. Trans 207.09 Wis. Adm. Code;
2. Excavation of the waterway is limited to only that amount that is essential to place the



culvert;

3. No excavated material may be returned to the waterway or placed in a wetland or floodplain without prior explicit authorization;
4. The cross section of the culvert is <50 sq. feet;
5. The gradeline of overflow sections, as defined in s. Trans 20.04(12), may not be raised;
6. The culvert must not be causing flood levels on adjacent property without permission;
7. The culvert must be free of controversy concerning public rights and navigation;
8. Below the regional flood elevation, the culvert must have an equal flow passing capacity.

Within 60 days of submitting your conceptual plan, you must apply for a culvert permit from the DNR in order to obtain proper authorization.

*Permit applications can be obtained from
the DNR Internet web site*

Other Projects: A complete permit application and permit review is required for all other projects. This includes all of the following projects:

- Stream relocation or channel changes,
- Any changes in the structure footprint in public water,
- Any temporary or permanent fill within a wetland, floodplain or public waterway,
- Grading in excess of 10,000 square feet on the banks of a public waterway.

Your local WMS will coordinate the permit review. Contact the DNR early in your planning process to have staff help identify the appropriate site and explain the permitting process.

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